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Paper No. 6

FOLEY AND LARDNER
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OCT 02 2002

In re Application of
Susanna M. Rybak et al.
Application No. 09/961,400
Filed: September 25, 2001
Attorney Docket No. 018733-1059

OFFICE OF PETITIONS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) July 18, 2002.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed December 18, 2001 requiring *inter alia* a properly signed oath and declaration in compliance with 37 CFR 1.63. In response, the instant petition and a request for a 5 month extension of time were filed.

Petitioners have shown that the non-signing inventors, Susanna M. Rybak and Dianne L. Newton, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petitioners have established, via the statement of petitioner's registered patent counsel, Stephen B. Maebius, and a copy of a letter addressed to Dr. Kenneth A Weber, legal representative for Rybak and Newton, that the Application, Declaration and Power of Attorney, were sent to Dr. Weber for the non-signing inventors. Additionally, petitioners have provided proof that the letter sent to Dr. Weber was in fact received.

The non-signing inventors, however, failed to return an executed declaration. In accepting this petition, the Office is construing the statement from Stephen B. Maebius to mean that petitioner's counsel has first hand knowledge of the sending of the application papers to the non-signing inventors. Petitioners **must** inform the Office if this is not a correct interpretation.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being returned to the Office of Initial Patent Examination.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Paper No. 7

Susanna M. Rybak
7411B Round Hill Road
Frederick, MD 21702

Dianne L. Newton
15904 New Bedford Drive
Rockville, MD 20855

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OCT 02 2002

OFFICE OF PETITIONS

In re Application of
Susanna M. Rybak et al.
Application No. 09/961,400
Filed: September 25, 2001
For: IMMUNOCONJUGATES OF TOXINS DIRECTED AGAINST MALIGNANT CELLS

Dear Ms. Rybak and Ms. Newton:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/961,400	09/25/2001	Susanna M. Rybak	018733-1059

22428
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

CONFIRMATION NO. 6876
FORMALITIES LETTER



OC000000007209940

Date Mailed: 12/18/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 710 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 840.**
- This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c) Applicant must provide an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A request to transfer the computer readable form from another application on file at the U.S. Patent and Trademark Office has been submitted as permitted by 37 C.F.R. 1.821(e). However, the request cannot be complied with since there is no compliant CRF present at the United States Patent and Trademark Office. Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 018733/1059

In re patent application of

Susanne M. RYBAK et al.

Group Art Unit: Unknown

Serial No. Unknown

Examiner: Unknown

Filed:

For: IMMUNOCONJUGATES OF TOXINS DIRECTED
AGAINST MALIGNANT CELLS

CRF

STATEMENT REGARDING SUBMISSION OF SEQUENCE LISTING

The computer readable form of the Sequence Listing for this application is to be identical with that filed in Application Number 09/622,613, filed August 17, 2000. In accordance with 37 C.F.R. § 1.821(e), please use the last filed computer readable form ("CRF") filed in that application as the computer readable form for the instant application. It is understood that the United States Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant application. The Sequence Listing in the present specification contains the same sequence information as found in the CRF of the present application.

Respectfully submitted,

Sept. 25, 2001
Date

Stephen M. Maebius
Stephen M. Maebius
Registration No. 35,264

FOLEY & LARDNER
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Washington, D.C. 20007-5109
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*Parent SN 09/622,613
does not have a valid
CRF.*